

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

TRANSCRIPTION

Virginia Housing Commission

Short-Term Rental Workgroup

November 7, 2016 - 1:00 p.m.

House Room 1, The Capitol

Delegate Christopher Peace, *Chair*, called the meeting to order at 1PM.

Members in attendance: Delegate Christopher Peace, *Chair*; Senator George L. Barker; Delegate David L. Bulova; Delegate Betsy Carr; Delegate Barry D. Knight; Mark K. Flynn, *Governor Appointee*; and Laura D. Lafayette, *Governor Appointee*; Ron Rordam; Mark Haskins; Chip Dicks; Robert Bradshaw; Maggie Ragon; Amy Hager; David Skiles; Edward Mullen; Pia Trigiani; Sterling Rives; Eric Terry.

Staff: Elizabeth Palen, *Executive Director of VHC*

I. Welcome and Call to Order

- **Delegate Christopher K. Peace, *Chair*:**
 - As everyone will recall, at the end of the last General Assembly session, Senator Vogel's bill passed with a reenactment and a charge to the Virginia Housing Commission that reads: The Housing Commission shall convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners, and other interested parties to explore issues related to expansion of the framework set forth in this act related to the registration, land use, tax, and other issues of public interest associated with the short-term rental of dwellings and other units. The workgroup shall take into consideration existing structures, governing the activities of bed and breakfast inns, vacation rentals, and other transient occupancy venues. The work group shall complete its work by December 1, 2016, with the goal of developing recommendations and draft legislation for consideration by the 2017 Session of the General Assembly.
 - I want to thank the staff, especially Elizabeth, for all of her hard work in getting us to this point. I would also like to recognize Lisa Wallmeyer who has spent

countless hours, both in session and since, on the matrix that you have in your packets before you and other considerations.

- Today's meeting we'll hear from building code representatives in light of various requests to have us consider areas concerning public safety concerns that have been raised along the way. We are grateful to have building code official Sherie Hainer from the City of Virginia Beach to present.
- After Sherie presents her information for the benefit of the work group, we'll have Lisa present a high-level overview, as I've been told, of the policy considerations concerning short-term rentals, and for our consideration, questions and comments. I'd ask at that time after she reviews the matrix, which is also in your packets before you, that we would reserve questions and comments until she's through her presentation. So hopefully you can write them as they come to mind. Many of the considerations are related to one another. Thank you for your indulgence on that.
- We will have public comment and discussion and may take a temperature on the matrix and the questions that are presented at the appropriate time.
- Are there any questions or comments before we begin our meeting? Hearing none, Sherie, are you with us? Great. Thank you for coming from Virginia Beach. I appreciate your being here. You have a lot of good representatives from the City of Virginia Beach.

II. Building Code Issues Regarding Short-Term Rentals

- **Sherie Hainer, Building Code Official, City of Virginia Beach:** Thank you for having me here today. We've been sort of struggling with this problem in Virginia Beach with Sandbridge. I have a little bit of information that we're using as guidance at this time.
 - In the paperwork was a matrix of use group classifications. The Building Code looks at the use of a structure and the amount of hazard that's involved with the occupant while using that structure to determine height and area limits and other life safety issues.
 - The residential classifications are divided into five groups. The first one is R-1, which is the hotel/motel. It's for use of sleeping units in a structure for less than 30 days.
 - R-2 is for more than sleeping units, maybe even in dwelling units that are of a more permanent nature. And *permanent nature* is more than 30 days. It also talks about dorms and fraternities. I have some life safety requirements we'll go over in just a second.
 - R-3 is categories of units that are bigger than what we consider residential. And they have to be constructed in accordance with the International Building Code.

There's the International Building Code and the International Residential Code. They're very different.

- R-4 is residential uses for nontraditional residential uses. It's halfway houses, some convalescent care where you wouldn't be kicked into a more restrictive use group classification.
- R-5 is single-family homes, duplexes, and townhouses.
- Based on this matrix, whatever the use group classification is determined, that determines other Building Code requirements. All R-1 structures have to be sprinklered. They have to have a sprinkler system, except—and that's an exception on a page that's handed out, Terms and Exceptions. If you look under R-1, there's an exception for bed and breakfasts. If it is nonoccupied by the proprietor, a maximum of 10 occupants, you don't have to sprinkler it. They're still counting it as residential, and you can have smoke alarms instead. If you have a proprietor-occupied bed and breakfast, you can't have more than five guestrooms. Most people have two per guestroom, so you're back to the 10 occupants. Again, you don't need sprinkler systems; you can just have a smoke alarm there.
- The reason for the sprinklers and other requirements are rated construction for egress. You have to meet accessibility. The reason for that in an R-1 is that you're there less than 30 days. If you wake up in the middle of the night, you're not where you usually are, so you need time to respond to a hazard. To give you more time to get out of the building, we have the sprinklers. That increases the time to get out. You have rated corridors. You have separations between the units so that if something happens in one unit, you can get out before the fire can spread.
- The R-2 are apartments and condos. The only difference between an apartment and a condo is one is leased and one is purchased. The construction requirements per the Building Code are exactly the same. Added into that are vacation timeshare properties. This was a hard battle at first for us to try to comprehend, but they are constructed as apartments. They have the same fire protection and sprinklers as apartments. The intent of timeshares originally was you bought one and you came back to that same unit year after year, so they assumed there would be some familiarity. So they counted them just as apartments.
- All apartments have to be sprinklered unless they're two stories or less and extra fire protection is added. But generally anything over two stories would have to have a sprinkler system so you have that inherent protection there.
- The other two don't really apply to the short-term rentals. The next is the R-5, the dwelling units. We are dealing with this in Sandbridge. Even though there may be eight bedrooms and six baths, it's still a residence. That's the intended use for the structure, and that's how it's constructed per the Residential Code.

- I was talking to a builder not too long ago who said the sweet spot for rentals is the eight-bedroom. If a family comes, you have grandparents in one room, however many siblings there are, they each take a bedroom, and then their children take a bedroom. You need that for it to be a true family experience. The problem with that changes when you have multiple tenants in the building or there is some other event that occurs in the structure like a wedding or a bachelor party. That's when we start to get the calls.
- There are provisions in the Building Code for change of use. You could determine that it is a house, that it's built according to the Residential Code, and it meets all of the requirements of a single-family home. And even as a rental it still is a single-family home. But if they change it to have a wedding, you've changed it to an assembly use, which takes it out of compliance. What we're trying to do in Virginia Beach is to identify what is an event that would trigger a requirement and would it be that we now start building those structures to the most restrictive requirements or do we grant temporary special use conditions for the occupancy of that structure just for that specific use?
- I know that's a lot at one time. A lot of this ties into the Zoning Code. Our Zoning Ordinance allows only four unrelated people per structure. So if you have more than that who are not related, you could be in violation. There are overcrowding provisions in the Property Maintenance Code after a house has been built and it's leased out. We had some problems this summer with kids coming in to work at the beach. And in one house, there were 42 people. So we were able to stop that through zoning.
- The main portion of the code that would apply is the length of time that they're there and also the hazard that would be presented. If someone is renting a house for a week and they're using it as a house, there's really not a change of use and the amount of hazard hasn't changed.
- **Peace:** That concludes your presentation?
- **Hainer:** That's it.
- **Peace:** Okay. Thank you for your hard work. Are there questions or comments from members of the work group, Commission members, legislators? Mr. Rives.
- **Sterling Rives:** Thank you. Could you tell me whether there are any other special requirements for bed and breakfasts, B&Bs, aside from the provision that they must have a working smoke alarm?
- **Hainer:** If they go beyond the scope of the exception where they have more than 10 people or more than five guestrooms, then yes, they would have to meet the sprinkler requirement. They would be treated the same as a hotel.

- **Rives:** But otherwise there are no requirements that could apply to a B&B different from the requirements that apply to a single-family home?
- **Hainer:** That's the intent, to try to keep that feel of it being a single-family home.
- **Rives:** Do you do inspections at B&Bs to assure that there are smoke alarms?
- **Hainer:** Yes. The change of occupancy allows for changes within the use group classification. If a structure is built as a single-family home and now they're going to convert it to a bed and breakfast, that is a change of use within the use group classification. We would inspect it to make sure that it met all of the requirements for a B&B.
- **Rives:** Are there then annual inspections after that?
- **Hainer:** Not at this time. Depending on the locality, the fire marshal may inspect it to make sure the alarms are still operational. Depending on how it's rented, the property maintenance officials in different localities may look at it as a rental property and they do an annual inspection. But the Property Maintenance Code is not mandated; it's by local adoption. So it would depend on the locality.
- **Rives:** Thank you.
- **Peace:** Thank you, Mr. Rives. Yes, Delegate Knight.
- **Delegate Barry Knight:** Barry Knight. Sherie, I think one thing you may have been asked I could have gotten wrong, but for B&Bs, the difference between them and residential houses, we do have to have a special use permit in Virginia Beach for the B&Bs?
- **Hainer:** That's through Zoning.
- **Knight:** Right, exactly.
- **Hainer:** That's not part of the Building Code; that's part of Zoning.
- **Knight:** Right, right. I just wanted to add clarity to that. And Mr. Chairman, we have issues in Virginia Beach just like we're discussing here today. We have hotels, we have B&Bs, we have these North End homes, and we have these Sandbridge homes. We have now what we're trying to define as event homes, which we're talking about. We also have special tax classifications down there because Sandbridge has a special—we call it a "sand tax" down there where the tax rate's a little bit higher if we need to get some sand in there. We have just as many things we're discussing at a local level at Virginia Beach as we are here today on a state level.
- **Peace:** Thank you, Delegate. Yes, Mr. Bradshaw.

- **Robert Bradshaw:** Ms. Hainer, you mentioned a house with 42 people and we put a stop to that. Did somebody complain and so the City stepped up to the plate?
- **Hainer:** It was in a residential area that falls under the Property Maintenance Code for the number of people who can be there. There's a square footage allotment per person. Of course someone called and complained that it exceeded that, and it did. So they were able to find other housing for the people who were there and contacted the owner of the property to let him know he was in violation and he couldn't do that again. Then they continued to monitor the situation to make sure that it doesn't happen again.
- **Peace:** Mr. Mullen.
- **Edward Mullen:** Thank you, Mr. Chairman. Edward Mullen. That's a very helpful explanation. I just wanted to note, Mr. Chairman, that your legislation did specify one contract at a time. Of course all of those sorts of occupancy limits, people that can be in the house at a single time would have been generally applicable and hence it wouldn't have been impacted by your legislation.
- **Peace:** Further comments or questions for Ms. Hainer? Mr. Rives.
- **Rives:** Mr. Chairman, just one minor correction. Your legislation specified only one contract at a time on a regular basis, which implies that on an occasional basis, you can have multiple contracts for occupancy in the same dwelling. I don't think it's defined what's regular and what's occasional. That's sort of an open question.
- **Peace:** We'll save that for discussion. Any other questions or comments? We thank you for coming all this way. We appreciate your expertise and your service.
- **Hainer:** If you have any questions, there is a link to the Virginia Building Officials Association that you can go to, and we'll make sure we get you an answer.
- **Peace:** Very good. Thank you so much.
 - And now we will hear from Lisa Wallmeyer who has put together the matrix that's in your packet. I want to preface her presentation by just a brief report to the work group. It's probably no surprise to anyone that there have been a lot of public comments on this particular issue. There have been many, many calls to staff's office and to others. Staff has directed each person who has contacted the Housing Commission to contact their locality if there's a health or safety issue. And each caller was also advised to contact their legislator, Senate and House member, as well as a local official if necessary.
 - We extended invitations at each juncture for people to come and participate in these work group meetings and told them that written comment would be accepted. I believe we have at least one email that was inserted into the packet today.

- We've received a lot of emails as well as mailed letters in support and in opposition to the general concept. We've had 49 written letters. We've had them range from issues of taxation to use, which has been, obviously, a primary focus of all of ours. We have some gentlemen or other individuals here today who will speak at the public comment time as well to add onto their submitted written comment.
- I would say, generally speaking, the people who are in opposition of short-term rentals are people who live in quote/unquote neighborhoods, and they stress concerns over quality of life, safety, and property values. I think those are the themes that we've heard throughout, so we want to recognize those. And we appreciate all of the public comment that has been submitted to date.
- With all of that, everything's that been submitted, all the comments and other input from work group members, as well as any of those who may have been working on a parallel course along the way, those have been submitted via our request staff, by Elizabeth and Lisa. And so what you have before you is our best effort to compile all of that and provide questions. It reminds me [when I w]as a child of reading *Choose Your Own Adventure* books. I used to skip to the end and then work backwards. I'd end up on the most favorable position. Unfortunately, we can't do that today. Although maybe I started with my bill. We might end up there.
- So, thank you, Lisa, for all your hard work. We'll take your guidance as we go. Reserve your comments until the end. Thank you.

III. Bill Matrix Discussion

- **Logistics: Lisa Wallmeyer, Division of Legislative Services:** Thank you, Mr. Chairman. For those of you who don't me, I'm Lisa Wallmeyer. I'm an attorney at the Division of Legislative Services. I do not normally staff the Housing Commission. I was assigned to work on this draft legislation as it emerges. I was drawn into the Limited Lodging Act last year during session with Delegate Peace's bill and Senator Vogel's bill as they went through the Senate Finance Committee. I will continue to see them this year, I'm sure.
 - For those of you who I'm sure are very envious of my position of getting to draft this bill because it's a little light work for fun in an otherwise quiet time in the office, I do come at this from a nonpartisan position. I don't have a dog in this fight. Ms. Palen and I spoke with many stakeholders over the course of the past several weeks. I've tried to lay out the options and the issues that were presented to us in the course of the discussion. I've tried to lay them out in a way that is not giving any preference to any one position over the other, just to get the issues on the table of these are things that need to be resolved in a draft.

- As Delegate Peace mentioned, several of these things are sort of interconnected. So I had originally thought that I was going to try to put a draft bill out there with maybe in a couple of places a couple of different options where there was disagreement. It just became apparent that there were too many issues where a particular entity or group would say this is generally our position, but if this issue changes, then this is our position. So it was just too hard to put a draft out there with the options where you could sort of see that interconnectivity. So hopefully dealing within a matrix, just on an issue-by-issue perspective, you,--when you discuss--will be able to better bring in your positions of Well, we thought we were supporting Yes, but since we've already decided No on this other issue, Now our position is this over here.
- Again, I'm happy to answer any questions at the end, but I just want to give you a real high level of where I was on each of the issues before we get bogged down on any particular issue.
- The first thing that popped up in the course was just Is this legislation necessary? I think that that's actually probably an important thing to step back and think about before we get into the weeds of what legislation would entail.
- Those in favor of legislation see a need for standardization across the state to how these short-term rentals are treated, a need for standardization in tax collection, or just ensuring that taxes are collected centrally.
- Those who did not think there was a need for legislation thought the localities had all the tools in their tool belt that they needed to adequately enforce this to make locality-by-locality decisions as to whether this type of rental was right for their locality and felt like they had the ability to collect their taxes and provide my education about the collection of the taxes if that was an issue.
- I'm not weighing in on the veracity of either of those statements; those were just what was put out there.
- The second issue was the applicability of potential legislation. Senator Vogel's bill as passed would have applied to primary residences only, and Delegate Peace's bill as well. But as noted, the enactment clause does direct the work group to look at other types of property, whether they be secondary homes or bed and breakfasts or other things.
- I kind of grouped these into three different types of property that would be subject to discussion.
- The next very small issue in this discussion has to do with the local authority and the level of preemption that should take place in the bill. On the argument on the side that local authorities should not be preempted gets to the issue of the fact that localities generally have authority to regulate land use. Short-term rentals might change the nature of property, and localities should have the authority to act accordingly. The issue against is that the General Assembly has the authority

to step in when necessary and provide standardization and regulation. And this is one of those cases when if the General Assembly felt that it was in the best interest of the Commonwealth to step in and preempt this area then it has the authority to do that.

- I hope that as I parsed this out, I was clear what I was trying to do. If you drill down further on the “yes” side, then the next question would be if there is preemption, should the locality have the authority to require the people that use their property for rent to have insurance. I feel like in discussions there was some general agreement around that, that that was a fine requirement to have. It was reflected in the legislation. SB-416 allowed up to \$500,000 of insurance. I feel like I heard a little bit of not rumbling, but maybe not everybody saying that they thought everybody was set on 500,000. So I don’t know if that’s a topic for discussion or if that was just people saying I’m not sure how everybody else feels.
- The other issue was should a locality have other specific grants of authority as it relates to the short-term rental? There were a couple different approaches taken in Delegate Peace’s bill and in Senator Vogel’s bill. Delegate Peace’s bill as introduced had a list of optional local regulations saying although a locality can’t prohibit this practice, it can put in place requirements relating to parking or occupancy or requirements to have working smoke detectors. There were a number of other things that were public safety, health, general nuisance—noise ordinances, that sort of thing.
- Senate Bill 416, Senator Vogel’s bill, took a little bit different approach in the version that passed. There was just a general statement that even though local authority was preempted in the world of short-term rentals, that did not mean that ordinances of general applicability relating to noise, health, safety, parking, etc., would not apply to these rentals. So basically if you have a noise ordinance that says no loud noises after eleven, that’s going to apply to a house regardless of whether it’s the people in the property who own it, my brother house-sitting in it, or I’ve rented it out through an online platform.
- Another issue that came was related to business licenses or BPOL. Generally, the renting of property other than by a hotel, a boarding house, or a bed and breakfast is exempted from BPOL taxes. However, there is a provision that says if a locality had such an ordinance prior to 1974, they’re grandfathered in. My understanding is there are about 24 localities that are grandfathered.
- So an issue has arisen as to one, if you’re using short-term rental and you’re in one of those grandfathered localities, when should BPOL kick in? Should it be the first time, the one family that goes out of town and rents their house once and that’s all they ever do it? Or should there be a set number of rentals, a number of nights, amount of income? Should there be a trigger for when that would apply?

- It's also been brought to my attention that some localities that aren't grandfathered might be trying to say that this changes the nature of the home, that this is no longer a private rental, it's a business, and that some localities might be trying to impose BPOL even if they're not grandfathered. I don't have firsthand knowledge of this. This is all hearsay that I'm passing on to you, but it was brought to my attention that this could also be an issue. So this issue of whether BPOL needs to be clarified.
- Next, the question came up as to whether online hosting platforms are currently performing services and activities that would require them to be licensed under Virginia real estate law. I know that some of our work group members have been going back and forth in this discussion. I'm not going to pretend to be an expert on that, but that is an issue as to whether there would currently be requirements that a platform like Airbnb, Do they fit the definition of somebody conducting real estate activities?
- This issue, happily, is one of the easiest. There seems to be general agreement that this legislation would not supersede existing contracts. So that would mean that whether you as a tenant have a contract with your landlord that you will not sublet or further rent out your apartment, whether you have a homeowners association agreement, a community of common interest covenant, etc., across the board that would trump anything in this legislation.
- Next is the registration issue. Should a locality be allowed to require registration for persons offering property for short-term rental? One side of that is No, they shouldn't be allowed to do that. Then the second side of that, which gets a little more complicated, is Yes. And then the question becomes Should it be permissive that a locality *may* allow registration or should it be mandatory so that there's a statewide uniform system so that for a person who might for one weekend rent a home in Albemarle and then later in the year rent a home in Virginia Beach there would be similar standards. Excuse me; let me step back. If a person who owned multiple properties, maybe a primary home and a vacation home, if we have decided to include secondary homes and they're renting both, they would have the same registration process regardless of which locality they were in.
- I also made a note that if local authority to allow the short-term rentals is not preempted, and so you would have some localities who allowed it and some who didn't, then this issue of registration sort of breaks down to another level of obviously then you'd only require the registration in those localities that allow the rental.
- That gets to the next issue. If there is a registration, what should it look like? I think there was commonality across the board that the registration should be--I heard the term *ministerial* used. I heard the term *reasonable* used. But nowhere in the discussions did it come up that this should be a moneymaker for localities. It should just be to cover their costs. I know if you use the term *reasonable*, then

reasonable is in the eye of beholder. So that opens a whole other can of worms. But the issue is I didn't hear anybody say they were seeing this as a potential for localities to have a source of revenue per se.

- Then the question came up Should it just be as simple as name, your address, your contact information if you're renting your home? There were some groups that were proposing a tiered system, which I've sort of outlined here. Please note that the various elements I've put here were just things that were thrown out in conversation. This isn't set in stone, if you decide to go to a tiered system, here is exactly what it would look like. It just sort of gives you the idea of what was put there.
- Definitely in question was the number of days that would keep you in the, quote, *de minimis* category where you're really not doing anything substantial. I heard numbers thrown out from 14 days to 45 days to even more. So if you went this approach, that would definitely be an issue that would need to continue to be discussed.
- Also brought up what I think there was general agreement on—and again, I'm not trying to speak for anybody. So if I'm misspeaking about general agreement, please bring that up in the discussion/comment portion. But I think there was general agreement that you should be exempt from any registration process if you were already licensed in some way. That would mean if you were a property manager or a registered property manager renting out homes, you would not have to go reregister again under this process. If you were a hotel that already has a business license and is otherwise sort of accountable to the locality, you wouldn't have to register.
- The next issue is Should hosting platforms be able to collect and remit the state and local taxes centrally and remit them to the Department of Taxation? On the one hand, you could say No, that local taxes should be remitted to the locality not to the state. Or there's the argument that it would ease revenue collections, make it easier for the homeowner, etc., if the online platform could collect the taxes. Obviously, the Department of Tax would be the central point in the Commonwealth for collection or remittance of taxes.
- Because the bulk of these are local funds—the transient occupancy tax, the local portion of the sales tax—there was concern that if they're flowing through the Department of Tax they could somehow take on the character of being state revenues that the state could use.
- I spoke briefly with the Department of Tax. I think that we could take an approach that if we collect them and distribute them like we currently we do with the local sales tax, which is remitted to the Department of Tax with the state sales tax, that could alleviate some problems. That actually does not flow through the Appropriations Tax because it's immediately turned over to the individual localities' accounts. And to the best of my knowledge, there's never been an

attempt by the state in the appropriations process to try to grab that money. I'm not trying to put ideas in anybody's head. So, let's just say they can't and move on.

- I don't know how many of you are familiar with--in the transportation funding bills we did a couple years ago--we put what we have called a *kill switch* in those bills, that if any of those revenues were used for a purpose other than transportation, the bill goes *poof* and disappears. We could also fashion something like that here, that if the state ever tried to take any--borrow any--of these local moneys, that *poof*, the whole registration preemption, just the whole bill, would go away.
- There is also the issue of if we allowed for hosting platforms to register and collect the taxes, Should they be required to do it on a statewide basis or could they still pick and choose which localities they wish to collect and remit on behalf of? We're getting down to the end, I promise.
- There could be other issues; these are the big ones. I'm not trying to promise that this is an end-all/be-all collection of every issue that could arise. I think these are the major ones that would have to be decided before other nitty-gritty issues maybe got brought up.
- A question arose about confidentiality of tax information and who the information could be shared with. Both of the bills in the General Assembly session last year said that Tax could not share information that it received from a hosting platform with local taxing officials. This is a little different than our standard tax confidentiality provision that's found at 58-1.3. that establishes general confidentiality tax information, but the Department of Tax can share tax information with the relevant local taxing authorities. This would trump that and say Tax could not share this information with the local taxing authority. That's an issue to decide how you want 58-1.3 to apply.
- And then finally, Who can audit the information submitted by a hosting platform? Both of the bills from last session said that Tax could audit what the hosting platform submitted to it, but it couldn't drill down to individual taxpayers, and the localities would not have the authority to audit. Some questions arose in the course of our discussions. One was about transparency related to only Tax having the information. And the second one was concerns by the locality of being able to audit not individual taxpayers, but really to audit to make sure that they actually were getting the money back that they were due. For instance, if Tax was telling them they received taxes equivalent to 100 nights of stay last month in your locality, would a locality have the ability to audit and figure out that that actually was being correctly reported?
- That's it. I'm sure this will be an easy and quick discussion to follow, but I'm happy to answer any questions.

- **Peace:** Thank you, Lisa. We appreciate all of your hard work. I think what I'd like to do at this very early point of our discussion with questions and comments is see if there is first what I would call errors or omissions of this list that's been presented to us. Are there members of the work group who have been working throughout with each other, with others, who see that there's something missing, an issue that needs to be addressed that's missing in this compilation? Mr. Terry.
- **Eric Terry:** Eric Terry, Virginia Restaurant, Lodging & Travel. Lisa, thank you. Very nice job on this. I know this has been talked about in a number of jurisdictions. Was there any discussion about sort of the delisting process, any structure of noncompliance, and a structure of fines or anything like that?
- **Wallmeyer:** There were not concrete discussions. The only thing that came up—and I'm sorry that I might have skipped over this briefly—was that one of the issues with an online hosting platform being able to register with Tax was Should there be some prequalifying conditions before registration is accepted? And one of those things might be that they had a delisting process. Another issue that came up was that they had somebody who could be contacted 24/7. Those things would all be subject to discussion, what those criteria were. But that was the context in which this discussion came up. Fines were not discussed in any of the conversations that we had.
- **Peace:** Is there anyone else on errors or omissions? I will say that it's the consensus of the work group that this composite represents all issues that have been presented to staff and this work group that need to be considered by this work group. Mr. Mullen.
- **Mullen:** I'm not sure that it really needs to be in this matrix, but I'll just mention it as a backdrop to the matrix. The potential impact in certain respects of federal statutory and case law and sort of limitations on what states and localities can and can't require hosting platforms and Internet hosting platforms to do. Again, I don't know that it necessarily needs to be a part of this, but that is a backdrop issue that's relevant. Thank you.
- **Peace:** Thank you. Yes, Lisa.
- **Wallmeyer:** I had one more thing that I meant to add that isn't necessarily reflected in the matrix. I also in my other life staff a technology policy group. One of the things in drafting technology policy that we always try to keep in mind—I'm just throwing this out as food for thought, not to tell you what to do—is to try to remain technology neutral because technology changes faster than you can blink your eye.
 - One thing that jumped out at me in working through this is this bill is obviously very directed at using online hosting platforms. I think one thing to consider is Can the bill be broadened or should the bill be broadened to short-term rentals in general, regardless of whether I stand on a street corner shouting out like, "Hey, I got my house for rent. Do you want to come rent it?" Or whether you use an online platform, whether on your gym bulletin board you post a notice that people can tear off your phone number? So just something to ponder that at the

end of the day, if you draft something that's specific to the online hosting platform, there may be other means of somebody doing a short-term rental that aren't as prevalent and aren't as often, but just to keep in mind Should whatever you decide be applicable to all short-term rentals regardless of the platform?

- **Peace:** Thank you, Lisa. Yes, Delegate Knight.
- **Knight:** This kind of goes to what you were asking a while ago about federal preemptions. What requirements do the platforms have to the host to make sure that the localities are getting all the income? I'm not sure they issue 1099s. I would kind of wonder if—let's use Airbnb for example. If they've rented 10 homes in Virginia Beach for 10 days, how do we verify that so we know that we're getting our money back for tax purposes?
- **Peace:** The obligation to pay taxes is very much on the host. Part of what we're trying to accomplish with this discussion, Delegate Knight, is to come up with a situation in which it makes sense and it works for the hosting platform to collect and remit the taxes on their behalf. But fundamentally, currently under existing law, if nothing changed, the onus is on the taxpayer to pay the transient occupancy tax and sales and use tax as those apply.
- **Knight:** Mr. Chairman, that's kind of the crux of why I was asking that. If we know we have checks and balances on B&Bs and hotels for remitting taxes, if they're going to be in direct competition, I want to make sure there's a level playing field.
- **Terry:** Our bill was brought for the purpose of allowing a situation where it was cost-feasible for this particular hosting platform to collect and remit on behalf of its host because we see that as a good business thing to do and a good thing to do for the community.
- **Knight:** We may disagree a little on that. Yes, Erica Gordon.
- **Erica Gordon:** Mr. Chairman, just before we go too far down the road. With respect to the point that Eric was making and to the point that Edward was making, we feel strongly that the issue of enforcement should be added to this list. We feel strongly that if we're going to move forward with a registration system and talking about tax collection and remission, without any kind of enforcement mechanism there's really no point in talking about this. We've seen in other jurisdictions where there is no enforcement mechanism, no one complies with the law. So we think it's important that we have that discussion as well.
- **Peace:** Is it our concern, Ms. Gordon with Hilton Worldwide, that it be enforcement on the tax collection or the land use or both?
- **Gordon:** I think we need to have that discussion. I don't know the answer to that yet.
- **Peace:** Okay. Lisa.

- **Wallmeyer:** This just deals with one type of enforcement, but there were some penalties and some fines built into the legislation last year that dealt with enforcement on the tax collection side in terms of if a hosting platform registered. I think nobody brought that up as an issue. Perhaps I should have laid that out, but in my mind that was just part of the registration process that we carry forward. I think there are certainly other areas of enforcement that could be discussed. But I was not anticipating that that part of the fines and enforcement of the registration process would not be dropped; just nobody brought that up as having concerns with how that was structured or how that part was in place.
- **Peace:** I'm willing to be corrected, but the preference would be for a central point of collection. Mr. Haskins in the Tax Department presented on how that would work and how comfortable Tax would be with enforcement and verifying, to Delegate Knight's point, what was collected, whether it was accurate, and how it would be remitted.
- **Mullen:** This is Edward Mullen. I think it's important to distinguish between two different kinds of registration. I think the registration of the hosting platform for collection or remission of taxes was certainly presented in your bill and Senator Vogel's bill as a thing. And there were significant penalties if a hosting platform voluntarily registers for the collection or remission of tax—which is what it needs to do under federal—that it doesn't fundamentally owe. It can voluntarily get itself into that regime.
 - So our bill set up pretty significant penalties if they then failed to pay or underpaid or were fraudulent or something like that. That's to be distinguished from the sort of ministerial registration that the host would go through. And there could be any number of things that if a locality had ministerial registration for a host, some sort of basic permitting type thing or licensing thing, that's one and there could be enforcement that goes along with the host. Again, that's the case under existing law.
- **Peace:** I think what I'll say to your point of enforcement because obviously it's an issue is let's work through the matrix, and we'll have that as sort of a last point for consideration, if we can. And maybe we'll bring that up along the way in the alternative, in the context of the tax question and preemption. This is why all these things sort of start to interrelate. Mr. Menkes.
- **Neal Menkes:** Neal Menkes with VML. I was thinking about Delegate Knight's statement about the 1099s. [Inaudible.] Delegate Peace's bill of course addressed the use of 1900s. It doesn't make sense to think that Airbnb's going to be able to do withholding of personal income taxes. But I wondered at what point in time [inaudible] when these online platforms send out a 1099. It's not really an interest of local governments. It should be an interest to the state, particularly when there's a \$1.5 million budget [inaudible].
- **Peace:** Okay. I think we're to the point of questions and comments of Lisa if we have any. Yes, Mr. Flynn.

- **Mark Flynn:** I'm not a member of the work groups per se. On page 3, should BPOL tax be clarified? Just sort of a question or maybe comment about the 24 localities that are exempt. Those are 24 that are exempt for long-term rental, I think, right? It doesn't address the issue of short-term rentals, if I understand correctly.
- **Wallmeyer:** Mr. Chairman. If I'm recalling correctly—and I don't have the statute in front of me, I can pull it up when I sit down—I think part of the issue is the existing BPOL. Because it's so old, it doesn't really distinguish. It just talks to rentals on private property versus hotels, boarding houses, and B&Bs. I think that's part of the confusion is to if you're grandfathered, what is grandfathered?
- **Flynn:** Mr. Chairman, if I may follow up. Under 37.03(c)(7) is the exception to business license tax. It says you simply can't do a BPOL tax on persons renting property, real estate. But then the long list that includes hotels, motels, boarding houses, trailer parks, campgrounds, B&Bs, lodging houses—what I'm saying then, I guess, is well, Yes, it probably does need to be clarified unless Airbnb is classified as one of those many things that still are open to business license taxation. But the assumption that that issue applies only on the 24, I think, is probably one I would disagree with. I think it's a question about How are Airbnbs going to be included in that list of things that have always been open to taxation for business licenses?
- **Peace:** Other questions or comments?
- **Maggie Ragon:** Mr. Chairman, Maggie Ragon with Commissioners of Revenue Association. I would back up the statement, the point that Mr. Flynn just made, that in terms of BPOL for short-term rental, localities across the state do consider the activities of online hosting platforms of hosts offering their residential property whether it's owner/occupied or otherwise, as a boarding house or lodging house. We all consider these operations to fall under that exception.
- **Peace:** Okay. Mr. Dicks.
- **Chip Dicks:** I would say that there is probably some disagreement here on the applicability of this. I think probably clarification would be the right approach.
- **Peace:** Okay. Are there further questions or comments of Lisa before we get into a step-by-step review of the matrix? Yes, Mr. Skiles.
- **David Skiles:** Lisa, I just have one question, and I've been looking through the Code to see where it might exist. I know in House Bill 2313 there's a kill switch on the state and local transportation dollars. Is there any other example in the Code where we have put a kill switch in place that you can think of?
- **Wallmeyer:** Mr. Chairman. No. I believe that was a unique creation of our transportation funding bills.
- **Skiles:** Okay, thank you.

- **Peace:** Are there any further questions or comments of Lisa? Okay. Very good. Well let's go through it. We'll start on page 1. We'll just take the temperature and see how we feel about these things. I think we'll reserve question 1 to sort of the back end because I think it's more important to get through the policy considerations. There are probably political or other special interests that influence decisions related to question 1 that may cloud our judgment. So let's start with number 1 in terms of applicability of legislation that *may* be recommended. Again, all of these things are in the hypothetical.
 - Primary residence only, primary residence and secondary rental homes, any residential property. So, the question is How narrow or how broad would you want potential legislation and its applicability?
- **Mullen:** Mr. Chairman, I'm happy to start. I should say I think we have had a number of really productive discussions over the course of the summer on a wide range of these issues. We've been happy to participate in them. But they really are tied together in a lot of respects. I think, as you know, my client's primary interest really was the primary residence situation in getting a relatively straightforward rules of the road for that at the state level and then also a collect-and-remit system. But I know that there are other stakeholders who have been really closely who are interested in, if we are going down this road at the state level, figuring out that it is for everything else. We've taken a couple of different thoughts on approaches to that. That tier system is one. That may not be the right one. But I guess from my perspective in terms of the priority, it remains the primary residence situation. But I'm certainly open, as other stakeholders might be, to looking broader than that.
- **Peace:** And Mr. Mullen, when you say "primary residence only," would that affect secondary residences or what we've heard termed as "illegal hotels" and the ability of a locality to regulate in that area?
- **Mullen:** When I talk about being focused on primary residences, it really relates to the rules that we set up under your bill, and the preemption, and then the collect-and-remit system, although that was broader than that. I think that the secondary and the multi-family, quote/unquote, that term you used, is an issue that others were interested in raising here, and I'm happy to try. I think the tier system is an attempt toward that again, maybe not the right one, but I'm certainly open to that in terms of priority, it's the primary residence.
- **Peace:** Senator Barker.
- **Senator George Barker:** Mr. Chair, George Barker, State Senate. If we focus it specifically on the primary residence, as was done with the legislation that we dealt with last year, what happens to these other two categories? Are they effectively covered in some other way at the state level? Are they effectively covered in other ways at the local level? Who makes those decisions?
- **Peace:** What do you think?

- **Barker:** I'm just looking for an answer here.
- **Peace:** Mr. Mullen.
- **Mullen:** Thank you, Mr. Chairman. Absent something, it would be up to local control. But again, I think the concept that you see represented in the tier system was sort of a multi-step process—some for all types of properties, some for primary residences only. So I think the default is local control.
- **Peace:** Senator Barker.
- **Barker:** Mr. Chair, if there's general agreement on what Mr. Mullen is saying, it seems to me that we should agree that if we do legislation that is specifically targeted at primary residences and how those would be implanted here that we make it explicit that the locality has the ability to regulate the other two categories.
- **Peace:** Mr. Mullen.
- **Mullen:** That's akin with some tweaks to what that tier system does. But again, I'll let others who are very interested in that secondary and multi-family properties speak to their interests there.
- **Peace:** Senator Barker has put an idea out on the table in response to the matrix question which asks whether it should be a primary residence only or primary and second rental home, any residential property. Is there any heartburn over the direction that Senator Baker has outlined as a response to this? Mr. Skiles.
- **Skiles:** Mr. Chairman, I know when we talked about this during session and a number of stakeholders in the room talked about this during session, one of the principal charges of this work group was to study this issue and how secondary rentals would be impacted. I think from my client's perspective—and I know Mr. Gordon, who couldn't join us today, certainly from his perspective there is an interest in pursuing some sort of statewide regulatory framework for non-owner-occupied, or in his case, multi-family dwellings.
 - I think when we're looking at doing something that is innovative and new, it's easy to say we could do it in a piecemeal approach. But I wonder if that's necessarily the best course of action. We've spent a lot of time discussing this legislation, both in this room and outside. So I think if we're going to be looking at this issue, we should study it from all angles, and we should look to put forward a bill that addresses the issues not only for primary residences, but also for secondary rentals.
 - I think if we do a primary bill this year, then we're going to be back next year talking about secondary rentals and maybe the year after that. So maybe this would lobbyist full-time employment act, but I would prefer it not be. Or maybe I do.

- So I just think that there are other stakeholders in this room. Obviously, Mr. Mullen pointed out that Airbnb cares greatly about primary residences. When you look at some of the companies my association represents, they cater to a different market. They cater to secondary rentals. Again, if we're going to look to do a statewide regulatory bill, we should do that, and we should address all of these different categories.
- **Peace:** Mr. Dicks.
- **Dicks:** On behalf of Brian Gordon with the Apartment Office Building Association, the Virginia Department of Management Association, and the Northern Virginia Apartment Association, all the apartment groups would like to have some vehicle for being able to rent through a hosting platform on a short-term basis for things like the [Presidential] Inauguration in Northern Virginia. They would like to look at vacant apartments and be able to use those in that circumstance.
- Everybody on the multi-family side recognizes that the issues with primary residences are different from multi-family. There are different zoning requirements, different use requirements under the Building Code, as we heard from Ms. Hainer. The issues are different. But since we're in this discussion, then the thought process on the multi-family side was to address that issue, just as Mr. Skiles said.
- **Peace:** Would either of you have an objection to proceeding in a hypothetical manner in developing the framework for primary residential and reserving that coming back, if they are different, to bifurcating those two thought processes in this effort?
- **Dicks:** Mr. Chairman, I think that was the attempt, as Mr. Mullen said, on the tiers and the concept of that. But again, if the tiers are not the right approach—and I confess, I think I was the one who mentioned the tiers in the first place. What we were trying to do is recognize the difference in land use and safety and overall in single-family residences in single-family, detached neighborhoods versus those areas that were zoned multi-family intense, high-density type uses.
- **Peace:** Mr. Dicks, on page 5, we have the tier system that you're referring to.
- **Dicks:** Yes sir.
- **Peace:** Is that an accurate representation of the questions that all of you have had conversations about?
- **Dicks:** Chairman, I would say that it is. We were not able to build consensus on the various thresholds of days, but I think this represents a discussion of the tiered concept. And there were some objections to that, needless to say, from localities from the Virginia Association of Counties. We were not able to build consensus on the tiers.

- The concept was that under federal tax law, if somebody rents their property less than 14 days a year, it's not even treated as a rental property. So the concept was there are already existing provisions in the law that sort of establish these tiers. There's another provision existing in the Virginia Residential Landlord/Tenant Act that says that anybody who rents less than 30 days is subject to the transient occupancy tax. Corporate apartments and all those kinds of things are already covered under existing law.
- So in the tiered discussion, we had considerable discussion about it doesn't change the land use, less than 14 days. If my mother comes and visits for 14 days or I rent a room for 14 days, you don't really know the difference in the land use in that type of circumstance. Likewise, we were looking at some way we could build consensus on something that would take the tiers out.
- While I'm on this page, we also talked about real estate licensees were already registered. And we talked about whether localities wanted a registration requirement for properties that weren't already covered by some registration form—hotels, motels, whatever else. Likewise, a real estate licensee who's already registered and that property owner.
- So we were trying to build consensus on some circumstance where clearly the land use changes. At a certain point or a number of days per year the land use changes. Quite frankly, all of the enforcement tools of noise, parking, everything else, localities already have that ability. Anything that you'd say in legislation is simply that you're confirming existing authority in that regard that localities already have to regulate those kinds of societal type issues of noise complaints and whatnot at the local level.
- Taxation, leave that aside, but we were trying, again, to establish something we call de minimis and then something that was a limited version that maybe would require a special use permit. The real discussion and the tension, I guess, became over the special use permits because in some localities, special use permits require you to do extensive studies; they can be very expensive. In one locality, it's \$27,500 for a special use permit. You can create all these scenarios where special use permits are basically a no for average people that want to engage in a short-term rental of some sort that would otherwise be permitted by the zoning.
- That was sort of the background. I know there are differing views on that, but that's a little bit of a summary of how we got to the tiered discussion. And we all agreed in tier 3 that at some point, this is basically a change in use and something that should be regulated by a special use permit or some other type of legislative decision of the governing body. That was basically the concept of that tier.
- **Peace:** And tier 1 de minimis, would it be a safe assumption, so say that it's less than 14 days? Is that where there was consensus or not—30 days?

- **Dicks:** There was no consensus, Mr. Chairman, I think it's fair to say on that. As Lisa put in the matrix, some said 14 days, some said I think 45 days, some said six months or whatever. I think that was the difficult part of building consensus about what that number was. The concept of de minimis was you wouldn't even know that somebody is renting or occupying a home.
 - There was also a discussion with localities to try to build consensus, which we were not able to do, about a discussion of home occupation. Most localities have a home occupation zoning scheme existing, so the question was whether we could fit some of this into the home occupation zoning approach. A lot of people work from their homes, and there's no change in land use and so on. But yet at the same time, at some point if a lot of cars come in and out, it starts affecting the neighborhood and there are complaints. And sort of going back to local zoning control, there might be some advantage to using a home occupation approach. But again, we weren't able to build consensus.
- **Peace:** Thank you, Mr. Dicks, for that. Mr. Mullen.
- **Mullen:** That was really the concept behind tier 2 was the sort of over-the-minimum threshold for primary residences only. What sort of things can you put on them? Home occupation is a really helpful summary. Home occupation to make sure that that increased use isn't adversely impacting your neighbors. The thought was the de minimis generally applicable ordinances will be sufficient. Once you get up over whatever that de minimis threshold is, then there may be other things that you need to put it on it again just in the primary residence situation. We weren't able to get there, but it makes sense, at least from my perspective, as a line of thinking.
- **Peace:** Mr. Rives.
- **Rives:** Mr. Chairman, Sterling Rives for VACO. I think one of the downsides of skipping over the first question, which is whether legislation is necessary at all, is that we quickly jumped into talking about the tiered approach without addressing what it is that we're trying to accomplish with this legislation.
 - I don't think that the case has been made—and if it has I have not heard it—for why short-term rentals should be treated differently from any other land use which is regulated by local government. As all of you know, the state system is that the state has delegated broad plenary authority to localities to regulate land use, and there's good reason for that. We have a very diverse state, and what might be appropriate in Wythe County might be appropriate only under conditions in Henrico County or in Fairfax County. So the state system has been to leave to the elected representatives of each community to decide what is appropriate, where, and under what conditions.
 - What I've not heard is why short-term rentals should be exempted from this local land use control and protection for residents of communities and all of the other land uses are not exempted. Why would we exempt short-term rentals and not

exempt lawyers' offices, for example, or any other home occupations or rental sales in a residential neighborhood?

- That's our first question. And not having heard that, VACO would respectfully suggest that no legislation is necessary if that legislation preempts local zoning authority or preempts the authority of localities to audit tax revenues or preempts the authority of localities to assure public safety either through Building Code enforcement or otherwise. So for localities, the emphasis is on protection of communities. And we're concerned with any legislation that says we cannot touch this, we can't regulate it, we can't require this use to be registration. Without those things, we don't think that localities can fulfill their mandate under state law and what our residents expect of us.
- **Peace:** Does VACO have a corresponding position with respect to collection of taxes?
- **Rives:** VACO thinks that we have the tools in place to collect the taxes now and to audit them. We're glad to have assistance in that regard, but not if it costs us local zoning control.
- **Peace:** Yes.
- **Menkes:** Mr. Chairman, Neal Menkes, VML. In answer to your last question, [inaudible], whether it's a B&B or hotel, those local transient occupancy taxes are collected and then remitted [inaudible].
- **Peace:** But not for Airbnb.
- **Menkes:** Correct.
- **Peace:** Okay, thank you. Mr. Terry.
- **Terry:** Thank you, Mr. Chair. Eric Terry with the Virginia Restaurant & Travel Association. One of the concerns with limiting it to the primary residence, as I think we shared earlier in this process, there was a study done by Penn State that showed that a big chunk of the revenues that were coming in to Airbnb were by the multi-unit operators and folks like that. If you don't include all residential property in that, I think you really kind of single out a large portion of what the potential revenue is, as well as ones that need to be registered.
 - On a second point with Mr. Rives' point, I do think that the difficulties of that registration, if you don't have the registration today, I agree, you have the ability to collect it. You just have to be able to identify who you're collecting from.
- **Rives:** We think we have that authority to require registration. Sterling Rives.
- **Peace:** To Mr. Rives' point, well articulated. Is it the position of the Hospitality & Travel Association that we do not need legislation?

- **Terry:** No, that is not our position.
- **Peace:** What is your position?
- **Terry:** We think the legislation is necessary to really create the transparency, a level playing field, and the taxation structure that is necessary.
- **Peace:** To the extent that Mr. Skiles is collateral to your industry, would you agree and share that on behalf of your client, the legislation necessary as now has been posed by Mr. Rives?
- **Skiles:** We certainly agree a regulatory framework is necessary. We should have one. I think there's disagreement on a variety of different components of that in terms of the secondary rentals and multi-family dwellings. But certainly agree that legislation is necessary.
- **Peace:** Ms. Gordon, as another collateral, you would share that same view?
- **Gordon:** Yes, we also agree legislation is necessary. Of course it depends what the final product looks like, but yes, we do agree a regulatory framework is necessary.
- **Peace:** Of course. This is the point of the hypothetical. Mr. Dicks, based on your prior comments of a tier system, which probably could be implemented only through legislation, you would also share the similar view that legislation would be necessary, subject to it being developed?
- **Dicks:** I would, Mr. Chairman. And at the appropriate time, I have a response to Mr. Rives' first question.
- **Peace:** I'm ready for that, if that's okay with you.
- **Dicks:** In terms of why somebody should be able to rent their property, the Virginia Association of Realtors looks at property rights as I've got a right to own my property, I've got a right to rent my property. I currently have a right to rent my property on a long-term basis, and there are no registration requirements by the locality, there are no special land use requirements, there are no special powers that localities are granted. I can rent my property for 12 months or six months or three months or whatever, and there's no power by the locality to come in and say that I can't do that.
 - We look at rentals across the board in terms of land use. As long as we're not changing the fundamental land use when we're renting our primary residence, we believe that our bundle of private property rights in Virginia gives us that right.
 - From that perspective, in terms of if I want to rent my property, for example, on a short-term basis, or three months or six months or whatever, the idea that the property owner would be required to go through a special use permit process is something that the Virginia Association of Realtors would vehemently object to.

- From our perspective, we look at this from a balancing standpoint and look at it from what rights the property owner should have to be able to rent. From that perspective, that's the reason we went down the road with the tiers. There's clearly a de minimis activity. If I engage in rental activity that's de minimis.
- When I get to a point, though, that I'm running a boarding house out of my house or I'm in this middle tier—middle tier was the most difficult one. The de minimis one, quite frankly, if it's 14 days or 30 days or whatever, using the existing statutory guidelines, again, that's not what is consensus around the stakeholder discussion, needless to say. But again, ask from a realtor perspective what that is, we see federal tax law at 14 days. We see short-term rentals already regulated at 30 days. Something below that in terms of days looks to us as a de minimis and looks to be part of our bundle of private property rights.
- The idea that if you leave it to the localities and the localities come back and say that anybody who rents their property has to go through a special use permit process, that we see as a problem.
- I hope that explains our position or our thought process.
- **Peace:** Thank you. Mr. Menkes.
- **Menkes:** I have two items. One is that the days Chip cited of 14 days, 30 days, all deal with taxes, not specifically with land use. I think that's important. Secondly, I would think that most localities would view [inaudible] right to rent property and recognize that there is a difference on a land use basis between short-term rentals, particularly when it's turning over constantly, versus somebody who stays for six months or 12 months or longer. Neighbors perceive a very big difference between long and short.
- **Peace:** Thank you. Ms. Trigiani.
- **Pia Trigiani:** I apologize for being late. But I would only add that if there are restrictive covenants recorded against the property that limit the term of the rental, that should also be given deference. And that often occurs, as we've spoken about before in prior meetings. But that's also important. That [inaudible] that the property owner owns is somewhat diminished by those restrictive covenants. Some would say a lot; some would say appropriately.
- **Peace:** We thank you for being part of the work group. And to your point, you previously presented such a general statement that does not supersede—or preempt, I should say—those contracts, I think it also articulated in this matrix, would be achieved best through legislation. Is that your position?
- **Trigiani:** I'm sorry. I'm not understanding.
- **Peace:** You would need legislation to carry that thought through if there—right?

- **Trigiani:** Yes. Where there is no limitation in the restrictive covenants, in the draft of the legislation that made its way ultimately through, there was a recognition of restrictive covenants, which we wouldn't support. But you're correct, for those that are silent, were the documents do not help, legislation would be helpful to address. And I think what Mr. Dicks just spoke to. What do you call it, tier?
- **Dicks:** Threshold, tier, whatever.
- **Trigiani:** Yes. I don't know what that is.
- **Peace:** Okay, thank you. Mr. Rives, you were trying to get back in the conversation.
- **Rives:** Yes. Thank you, Mr. Chair. I would agree that there's an obvious difference between a long-term rental and the impact on a neighborhood of continuous short-term rentals. With long-term rentals, whoever the renter is becomes a part of the community. He's a neighbor. People know who he is, know how to contact him. That person is highly motivated to get along with the rest of the community, just as we all do. Whereas with short-term rentals, these are people typically who are on vacation. They're visiting. They come, and they leave after two days or after a week.
 - So there is an inherent difference in the potential for impact on a community of short-term rentals. Now what is de minimis? I might agree with you that 14 days is de minimis, and it might be in some circumstances. But why should the state make that judgment and impose it on every locality in every circumstance? Fourteen days may not be de minimis in a townhouse community or in a condo. Fourteen days could be seven football weekends at UVA or Virginia Tech. And if you have people coming in for those specific occasions, that very well could have an impact on neighboring properties. So I think that should be left to localities to determine.
 - As for your earlier comment that some localities charge \$27,000 for a conditional use permit, I can't imagine where that is. It's not Hanover. In Hanover, a special exception, which would govern a home occupation, for example, costs \$750. Certainly that's not too much to ask. That basically pays the advertising requirement so that the public, the people who our elected officials are there to represent, have the opportunity to come out and express their views on this proposed use in their communities. And \$750 is reasonable. Even for a conditional use permit, which goes to the Planning Commission and then to the Board, is only \$1,500. So there may be some locality that for some type of conditional use permit charges \$27,000, but I can't imagine who that would be.
- **Peace:** I think, Mr. Rives, you would appreciate that if there is an extremely high fee, that that would be a barrier in entry into this enterprise.
- **Rives:** It would be a barrier for entry into any enterprise. I'm opposed to unreasonable fees. Yes.

- **Peace:** I'm so glad that you said that. Thank you very much. Yes, Ms. Hagar.
- **Amy Hagar:** Amy Hager, Bed & Breakfast Association of Virginia. I agree that it should be all. I'm getting the calls from these Airbnb hosts asking, "What do I need to do right now? I don't understand. I just put my property online. That's all I do, right?" They're not seeing it as a commercial property, as a single home residence, duplex, whatever it may be. And to be honest, when you look at the diverse group of the Bed & Breakfast Association of Virginia, we have properties that are 12 structures with 17 different rooms, and then we have properties that are one-bedroom cottages in a single-standing facility. So I think that's the true definition of short-term lodging right there. And that's what we're discussing. So I really do think it should be all.
- **Peace:** Thank you very much. Yes, Ms. Ragon.
- **Ragon:** Thank you. Maggie Ragon from Commissioners of Revenue Association. In terms of the applicability of potential legislation, we do feel that it should apply to all residential property, specifically due to the difficulty in determining which hosts would be primary residents only and which hosts would be primary residents or secondary based on the fact that the previously proposed legislation specifically did not allow local tax authority the ability to determine which would be which. In other words, to audit the online platforms or the hosts in order to determine that difference. Thank you.
- **Peace:** Are there further comments or questions? I think we had been talking about tiers. We had a very good explanation of that. Mr. Rives asked us to reconsider what we had sort of passed by in terms of Is legislation needed? It seems as though there is consensus, with one strong objection from local government, that there may be need for legislation subject to the details, which obviously is what's the most important part.
 - We can go back, and then check that box, and go back toward where we were. Do you want to revisit the tier concept and try to narrow that down? I'm looking for some guidance from the work group. If we can't get further than where we are right now, then this may be the essence of what is recommended forward to the Commission, and then the commissioners will have to take up this question.
- **Delegate David Bulova:** David Bulova. Mr. Chairman, if I could, I wanted to go back to Chip and your discussion about registration and the tier system. I know that you had started off your comments with trepidation in general from the realtors about any kind of registration of rentals. But I think you held open that you could see the tiered system with that middle part.
 - Now I wanted to make sure I wasn't putting any words in your mouth that you indeed were open to a registration system. And if so, what kind of registration system were you envisioning? I saw the word in here, *ministerial*, which conjures that it's simply you fill out a piece of paper and you're registered, maybe with

some kind of nominal fee. But I wanted to get a better sense of where the realtors really were on all of this.

- **Dicks:** So Mr. Chairman and Delegate Bulova, I think that—again, we don’t have a formal position because nobody’s nailed any of this down. But I think the discussion and concept was that the registration requirement from localities’ perspectives and from, I think, the lodging industry’s perspective, and a number of stakeholders, was an important feature to making sure that the taxes were paid.
 - So our concept would be that it would go in Title 58.1 in the tax section and that there would be a provision, as there currently is, in 58.1-3294, I believe, for an owner of rental property to submit their financial information to the locality for purposes of determining real estate assessment. So there’s already an existing provision in the code that deals with submitting that data.
 - So our thought process was that that section would obviously need amending if it was going to be used for a registration program under this bill. But our thought was that that would be the appropriate place.
 - The Realtor’s concern has been for property registration, as Mr. Rives and I discussed in a previous work group meeting, for 25 or 30 years, opposed to a registration requirement. Real estate licensees are already registered for BPOL purposes. So the discussion among the various different stakeholders was that real estate licensees and the property owners that they represent would be exempt from any registration requirement, and the registration requirement would go into the tax code. That would provide for confidentiality to the taxpayer, needless to say, the host.
 - But yet at the same time, there would be some benefit to the locality of knowing that this is a rental property, a short-term rental, and that the registration fees would be, as Lisa said, reasonable and not designed to create departments or staffing or whatnot. They would be modest, if you would. Is the same sort of thing that’s been done to the Building Code.
 - So that was the thought about registration.
- **Peace:** Delegate Bulova, did you have a comment or follow-up?
- **Bulova:** Yes, just a follow-up, and then it gets back to the question of whether we do primary residences and then primary residences and secondary rental homes. So if we stick with just a primary residence only, that keeps the realtors out altogether—correct?—because hypothetically, you wouldn’t be using an Airbnb or a similar platform in order to be able to get those rentals. It’s similar to the example we saw in Loudoun County, typical of what people think of the use where you’re doing it a couple of weekends versus the person who clearly had multiple homes and was using it essentially as a real estate service for rentals.

- **Dicks:** Mr. Chairman, I would say to Delegate Bulova, that is generally correct. But if I have a single-family detached home and I rent it to Mr. Flynn, then Mr. Flynn within the approval—because most of the time he’s not allowed to assign or sublease without the landlord’s approval. If the tenant were allowed to do that, then under that circumstance, a real estate licensee may be involved in terms of managing the rental property, if you will, the single-family house for the owner. So under that circumstance, the exemption from registration would fall into play. But generally, I’m Chip Dicks, and I own my house, and I’m not dealing with a real estate licensee at that point. The exemption from registration would not be applicable in that circumstance, as you point out.
- **Bulova:** The registration concept came up at the end of last session. And it really is in response to localities saying—aa I understand it—we really just don’t have a sense of where folks are. Mr. Dicks was up into Title 58.1. There was actually a provision that ended up in the final Vogel bill that allowed for a very simple ministerial registration requirement. I think Charlottesville has something like that that I think is pretty straightforward. Again, from our perspective, that’s something that we can certainly talk about in the larger context of the legislation. But that concept was raised and has been raised at a number of different points, and it’s certainly what we’re willing to think through as part of the detail discussion.
- **Peace:** Mr. Menkes.
- **Menkes:** To tie in with the discussion on registration, I’ll go back to what [inaudible] talked about at the very beginning. [Inaudible] reporting that enforcement, just submitting a piece of paper, [inaudible] address the locality’s ability to assess what the impacts are.
- **Peace:** That’s a fair point. Are there further comments about this subject—registration or tiers? Is there a preference on any of these? I’m hearing kind of all over the map on it.
 - How about tax? Is there any thought? I know Mr. Haskins can’t have a position formally, but he’s previously reported a comfort level that Tax has with a central point of collection and remission of the tax. Is there any thought from industry, local government? That is really who we’ll be dealing with on that point.
- **Mark Haskins:** Mr. Chairman, Mark Haskins, Department of Taxation. As we’ve discussed before, the Department of Taxation believes that collecting the retail sales tax would be easier with one point of contact rather than going after 4,500 different hosts to collect the tax. We’d certainly be willing, with or without legislation, to try to pursue a centralized collection of the retail sales tax.
 - As far as the transient occupancy tax, a local tax, the department has no strong desire to collect local taxes. If it’s the will of the Housing Commission and of the legislature that it’s better collected centrally, we’d be glad to do it. Absent legislation directing us to collect TOT, we really are not looking for that.

- **Peace:** Okay, thank you. Mr. Mullen.
- **Mullen:** Mr. Chairman, Edward Mullen with Reed Smith. No surprise at all. Centralized collection is a big key component of the legislation from our perspective. Airbnb sees great merit and very much wants to help localities and help the state by collecting and remitting taxes on behalf of hosts. There's a sort of calculus that goes into engaging, from a regulatory standpoint, with locality by locality and being audited and all those sorts of things. That's why we took the approach of the state level collection and remission.
 - We spent a lot of time working on it, ironing out the details, thinking about how it would be done and how localities would be protected. And at the time, the hosting platform and host would be protected. Candidly, we think that we came on this front with a pretty good compromise in the legislation, and that's certainly the avenue that we hope we'd see pursued. Thank you.
- **Peace:** Ms. Ragon, this is your area of expertise.
- **Ragon:** Right. I don't think I've made any secret of the fact that localities would like to keep the transient occupancy tax within the authority of the locality. And we'd love to get to be really good friends with Airbnb, all 132 of us.
- **Peace:** Thank you. Senator Barker.
- **Barker:** Mr. Chair, I do see a significant benefit to having a single tax collection source here. I think that certainly would work well. Right now, we have large numbers of people providing this service not paying any of those taxes. I think this is an opportunity to try to make sense out of that system.
- **Peace:** And to that end, since we've talked about registration, would it have that registration component? I'm looking at the matrix on page 6. If we want to say Yes to that question, at least staff has us answering one of two other questions. Maybe you're not prepared to say on that. I don't want to put you on the spot. But to the rest of the work group is there—Mr. Terry.
- **Terry:** Eric Terry, Virginia Restaurant, Lodging & Travel. Again, depending on the preference, we certainly see the benefit of the statewide. But it does have to come with some sort of registration so that there is local auditability by the local jurisdictions. I don't know how else you can kind of look at all the other requirements. You really have to have something for local authorities to be able to go in and audit and determine whether or not it complies with whatever they implement locally. So I think that registration has to be there from day one.
- **Peace:** I see Ms. Gordon shaking her head. I think you're shaking your head; correct me if I'm wrong. Because that relates to your original point of sort of enforcement. Is that right?

- **Gordon:** Correct, yes. I agree with Eric on that point. Thanks.
- **Peace:** Sure. Other thoughts on that? Lisa said she's doing this 30,000-foot report with this matrix high level. So that's where we are, high level. I think we're sort of hearing some common points. Going back to Mr. Dicks' description of the tier. The details are where people get off in divergent views. Mr. Menkes, you want to correct me, but go ahead.
- **Menkes:** Neal Menkes with VML. One of the questions is on the matrix. Whether in agreement between an online platform [inaudible] or anyone else of whether it would apply statewide or just in specific localities. Such agreement—I think Mark Haskins would agree—would be kept confidential. It would be somewhat confusing at the local level. And we may not know which localities [inaudible] the agreement, which localities would fit under subsequently amended agreements. That's tough for us trying to keep track of the money if we don't know who's being [inaudible] the agreement between the online platform and the Department of Taxation.
- **Peace:** Mr. Menkes, implied in that statement is an inherent distrust of the Virginia Tax Department, which I know does a very, very good job. And the software is truly reliable.
- **Haskins:** Thank you, Mr. Chairman.
- **Peace:** Mr. Haskins, for all disclaimer purposes, lives in my district and does a great job.
- **Haskins:** Mr. Chairman, we've had several discussions back and forth over this. As far as Mr. Menkes' point as far as knowing which localities. We have had discussions that the Department of Taxation would maintain a publically available database to show which localities have agreed to centrally collect the tax and report it to the department. So that should be out there. It would also include the rates and a process whereby we would update the rates based upon information from the localities. So this is an issue we've been addressing. And we believe that we'd provide the localities the information they need, if that's the way we go.
- **Peace:** Mr. Mullen.
- **Mullen:** I think that's exactly right. It's certainly the goal of my client to collect and remit for every locality where we have hosts. The reason the permission language is in there is for a couple of reasons, not least of which is we haven't gone through every locality—county, city, town, sort of down the line—to see what their transient occupancy tax looks like and to make sure that we could collect it. There are a couple of oddball rules that exist in other states. We don't know if they exist here. Like the TOT doesn't apply until the third day or something like that that we don't know if we could implement or not.

- Certainly the goal is to do it for everybody. And I think the things that we talked about in our working group was having a schedule that shows what localities are being collected, what rate is being applied, localities having access to that so that they could say Hey, that's not our rate, we just changed that, or so on and so forth. So I think there are fixes to that particular transparency issue.
- And I would caution on staying away from mandates, however. I think that could get complicated under federal law. And if there were a town in the middle of nowhere that had an oddball provision and you couldn't collect for it, that might result in your not being able to collect for the whole state. Thank you.
- **Bulova:** Mr. Chairman. If I could just throw this out. Mostly, I'm trying to get a reaction from Mr. Mullen because it's fun to watch his face. Actually, very, very serious.
 - With regard to a single point of collection for the taxes, it's a convenience, hypothetically or potentially, for local governments. It's also a very valuable service that you provide to your hosts because it keeps them from getting catawampus with local officials. So you have that point there.
 - Then you have kind of the enforcement part. I guess the enforcement is already being done at the local level. The issue is once that is collected, how do you know that you can match that up with somebody at the local level? So having some ministerial registration helps to do that. If you were to just do a point of collection—you collect, you send it back to the local governments. The local governments know who's registered, who's not. And then they can go about using their existing enforcement mechanisms to do that. Leave all the rest of this zoning and local stuff out of the equation because I think that's where a lot of people are getting tripped up.
 - What are your thoughts about a much more streamlined process like that that would keep us from tripping up on a lot of other details?
- **Peace:** Mr. Mullen, before you answer, I'm going to give you 30 more seconds to digest that. Page 7 is sort of a natural evolution to the conversation about the central point of collect. And I think we've heard the industry's perspective on that. But as an addendum to Mr. Bulova's question, in your response I think speak to those elements too. I think that the registration and transparency and what Tax said in response to Mr. Menkes' point also relate to these questions. So if we can kind of sandwich all of that together in your response, that may be helpful.
- **Mullen:** I'll do my best. I'll start with your question. I think as it relates to the tax piece, I think there's some merit in that. You have the centralized point of collection. Everybody knows what rate is being applied, what's being charged, we have stepping into the shoes of the taxpayer, so we are the taxpayer liable and all on down the line and are subject to audit. But at the same time, there is ministerial registration at the local level. So there is the ability, at least in theory if this all happened that way, where

the locality could go to Chip and say Show me your host manifest or your note from Airbnb that says that we are collecting and remitting on your behalf. So there's merit in that.

- I obviously see the whole picture as a very relevant one for my client and for the host that it represents. I think the use issues and being able to exercise your property rights in a reasonable way in a way that doesn't impact your neighbors negatively is an important thing. So, no, I really do see all of these things together. Obviously, there are two main component parts from the tax perspective and from the short-term rental and inventory perspective.
- **Bulova:** Mr. Chairman, if I could. And I hate to cut you off.
- **Mullen:** I'm glad you did.
- **Bulova:** You can do glass half empty, glass half full. So I guess my question is Would you see merit in a bill that just did that? I know Airbnb would like to go further, but do you see merit in a bill that just did what you described?
- **Mullen:** I don't know whether a hosting platform would voluntarily come on for that if there were not sort of uniformity in the rules of the road across the locality. Where they've done that at the large municipal level around the country, it's come. You've done the collect-and-remit piece part and parcel with the sort of here's what the rules are. We're doing a different thing. It's a different thing at the state level to do that. So the honest answer is I don't know how they would see that. I know my counsel is to do both.
- **Peace:** And to my question then. If it is part and parcel, speak to page 7. The confidentiality and auditing, which are similar to what we've discussed.
- **Mullen:** Sure. As I stated, the bill that we spent a lot of time working on with the Tax Department tries to walk the line between making sure that we the taxpayer—because that's what we're biting off. When we register for a locality, we become the taxpayer. Can be liable and can be audited, by the auditor in this case, the Tax Department. But also that the identity of our hosts are protected. They are at least as to our disclosing them. Obviously, with a registration provision that would be a mandate on them. From our perspective, our disclosing them is not something we want to do. So that confidentiality is really an important thing. But again, as to who's getting paid and making sure that the payments are right, I think Tax feels very comfortable with the audit provision.
- **Peace:** So it would be your position that registration would go a long way toward that. Is that accurate?
- **Mullen:** Yes.

- **Peace:** You're here with Airbnb, but there are others that perform this service. And any structure that's created, if it is, would apply equally to all platforms.
- **Mullen:** Yes, Mr. Chairman. And the way your legislation was set up, you didn't get the benefit of some of the uniform rules of the road unless you were paying taxes either individually as a host or a hosting platform. So it would really be incumbent on these other providers, if they wanted the positive benefits, whatever they may be, of this legislation to come register with the Tax Department and take those sorts of things on.
- **Peace:** Mr. Rives.
- **Rives:** Thank you, Mr. Chairman. Mr. Mullen's comments he just made about the desire for confidentiality, it seems to me that for local governments to know who is renting out their property for short-term rentals and how often they're doing it tie in directly to the enforcement issue that Ms. Gordon raised at the beginning of the meeting. If you were to adopt a tiered approach, how would local governments have any idea which properties are being rented out, whether they fall into what Mr. Dicks calls the de minimis category of less than 14 days, or the intermediate category, or the other? I don't understand the desire for secrecy and why the names of the people who are renting out their houses need to be kept secret from the local government or from the Commissioner of Revenue in this age of transparency.
 - I think every other business person recognizes that registration is a reasonable thing. Businesses routinely file tax returns with the state and with local governments. They list their machinery and tools. Why should this use be treated differently? What's going on that has to be kept secret?
- **Mullen:** Mr. Mullen. From a hosting platform's perspective, there are federal limitations on what we can disclose about the identity of the hosts that we have.
- **Rives:** But that's not the question. The question is Why can't the people who own and operate these houses that they're renting out report that to the localities?
- **Mullen:** One of the things that we've been discussing today is a ministerial registration provision whereby individuals who are hosting would register with the locality.
- **Peace:** It may be semantics. We'll address that on side. Mr. Terry.
 - **Terry:** Help me a little bit in terms of the disclosure. I'm actually kind of reading from a statement, I guess, that you all had in China where you have an agreement with them. It says, "Like hotels and other businesses operating in China, Airbnb China has to comply with all local laws and regulations including privacy and information disclosure laws, and may be required by Chinese government agencies to disclose information." And then I also understand you

guys have a recent agreement with Delta for their frequent flier program and whatnot.

- Seems like there's a lot of disclosure going on there. Seems like there's a lot of disclosure going on there, so why wouldn't Virginia be the same? Why would we be different than China and/or Delta Airlines?
- **Mullen:** I think Chinese federal law is probably different from U.S. federal law in certain respects. So it probably limits things a little bit differently and maybe requires things a little bit differently. U.S. law on this point I think limits what hosting platforms can disclose about their hosts. But, back to your point. Mandates on individual hosts to do so is a little different.
- **Peace:** Yes, Mr. Menkes.
- **Menkes:** Listening to this discussion, I wonder whether we're going to end up with something that's even more confusing than what is in place right now. Let's take Hanover County, for example, in which you use Airbnb when you rent something out and Sterling doesn't. What we end up with is two different processes for which we track the use of the properties and track the taxing and the auditing and regulating. That's within the same jurisdiction. And of course you have general perhaps confusion about citizens in that locality A is included in an agreement but locality B isn't. But citizens in B might be confused whether this applies to them or not. I think we need to be very careful whether the proposed solution ends up causing more unintended [inaudible].
- **Peace:** I'm sure. That's 3,000 bills that are filed during the General Assembly session. I guess if you would answer a question for me. If I recall, before I was even introduced to this issue—and I've never stayed at one of these things—there were several requests from local governments—primarily municipal governments who haven't even passed resolutions—asking the General Assembly to set forth uniform statewide guidelines. So are you saying that your membership now has reconsidered that after seeing what has been proposed and not liking it?
 - **Menkes:** Actually, our position for the last three years has been that—and it's general in regards to the use of the digital [inaudible] if the state decides to act on a specific issue, for example, TNCs (Transportation Network Companies) or an Airbnb, that localities have a role to play in the development of that policy. That's been fairly consistent over these last three years. What we've actually been advising localities now is that to go ahead if they're so interested in promulgating an ordinance to do so.
- **Peace:** I would just say as a follow-up, I appreciate your candor. Once that happens to its fullest extent, we're going to be right back here because that is what the Dillon Rule and all of our other constructs of the Commonwealth are designed to prevent, which is a first sort of objection to tapestry effect. We want uniformity for the purposes of business. So I appreciate what you're saying. I think what we're liking to

do is when we have a choice in the matter. How can we outline and set forward a proper policy? Thank you.

- **Menkes:** With all due respect, Mr. Chairman, I would think that many localities would say that they already have the authority invested to them by the General Assembly to [inaudible]. But I understand that we're all confused.
- **Peace:** Yes. Proffers are like that too. Anyone else? Yes, Senator Barker.
- **Barker:** Let me chime in on a few things here. I think there is some merit to at least establishing some general guidelines and limitations at the state level in terms of how we operate here. We have 130-some-odd cities and counties and I don't know how many towns. You could end up with a situation--and I just think to some extent that's part of the reason we don't have a functioning system right now--where it's very, very different and conceivably could be handled in very different ways in different places.
 - I think there is a certain benefit to having some statewide construct here to help implement things here. I think the opportunity for a de minimis registration type of thing that is referred to as ministerial here rather than punitive at the local level provides the opportunity for having an ability to track who is out there and to have a system whereby if you find out somebody hasn't registered, you at least have some ability to try to tackle that situation. That at least gives you some opportunity to try to address the issue on enforcement.
 - If you have that, it seems to me it clearly makes sense and provides significant benefits in a broad spectrum for being able to collect the taxes on a statewide basis. For being able to have the option for collecting those transient occupancy taxes, those types of things. So I think there is some benefit, if we could all just sort of not operate from a perspective of sort of What do we fear?, but try to operate from a perspective of What can we accomplish here that makes sense from a broad perspective and protects the rights of the citizens, protects the rights of opportunity and businesses in these situations? But it also provides some protection for the residents and localities.
 - I can tell you, having rented houses in the past before we built our own house, the people who were previously renting those houses did not always keep them up very well and probably were much worse than an owner would have been in many of those situations. So it's not a situation where a renter of a property I house now is automatically going to behave the same way that someone who owns the house is going to behave. This is sort of heading in a different direction here, and I think there's a legitimate distinction between someone who rents their house out in limited situations versus someone who's sort of using it for a commercial venture.
 - So I think the types of the things that we're going about in the tiers makes sense to look at here. And I think it makes sense for us to try to resolve those as best we can rather than just sort of punt it down the road and say we're not going to

deal with those. I think if we do that, we're likely to end up with more questions and more concerns in the long run rather than trying to reach consensus on things. And if we do it from a perspective of trying to figure out how can we help everybody in this process, I think we actually can reach agreement on several things here.

- **Peace:** All right. I think you said it well. The question is whether the work group can express its sense along the same lines that you've articulated. We can take a pause on that, have public comment, if you'd like. We've been here two hours. I appreciate the vigorous discussion. At this point, we'll take public comment. You've all been listening to this conversation as well, and I hope that you're able to come forward. We're recognizing three minutes per speaker. Yes, Mr. Bradshaw.
- **Bradshaw:** If I could jump in, do you want to address page 2? We'd like to make this easy on the taskforce and just say leave insurance completely out of it. The insurance industry, as Ms. Hager said, everybody and their brother, from small to medium to large to even marine are getting involved in this. And so it's an individual question. And so let the industry handle that based on the needs of the consumers.
- **Peace:** Personally, I tend to agree with that position. I know that you had issued a letter to the work group and the Commission along those same lines. I think without objection we can just say Yes to that and move forward, getting you out of Dodge. I don't know if you have an appointment to get to or not, but at any rate.
- **Bradshaw:** Let that not be construed that we want to sell insurance.

IV. Public Comment

- **Peace:** I appreciate that. All right. Let's have some public comment. If you are here and if you've traveled to come offer your thoughts to this work group, we certainly would invite you to come to the lectern and offer those comments. I will be keeping a watch on the time, three minutes per individual. I think there's a sign-up sheet. If you're on the sheet, great. I don't have it. You step up, tell me your name, and who you're representing, and we'll go forward from there. Please.
- **Blake Ratcliff:** I'm Blake Ratcliff. I'm an Airbnb host.
- **Peace:** Thank you. Go ahead.
- **Ratcliff:** Delegate Peace, thank you for this opportunity. In July, you raised questions about what is really meant by preserving community standards and retaining community character.
 - We've endured hate, harassment, and public shaming after hosting people of color in our home. Whether they were Airbnb guests or personal friends, our home has long been used for entertaining guests. The previous owners moved out of the upstairs so they could host 50 bluegrass concerts, each attended by 100

white strangers from all over DC. No one complained about noise, cars, strangers.

- Imagine our shock when one of the neighbors your work group heard a presentation from in July led a door-to-door campaign against us after we hosted an African American family's annual family reunion. They filed a complaint with the HOA having never said a word to us. After my son hosted a spring break party, including African Americans, this same neighbor complained at the March HOA board about security and Airbnb. We hadn't hosted an Airbnb guest for four months. During late March, April, and early May, we had only white guests. None of my neighbors appeared at the April or May HOA board meetings to complain. Eight days after we hosted black professionals in town for a Memorial Day festival, though, 10 neighbors, including three from your July hearing, complained at the June board meeting, led by a neighbor who cannot see my home from her property, only the color of the people driving by in their cars.
- One of your July presenters complained the Airbnb guests brought casseroles, suggesting that Airbnb guests don't invest in the community. She was referring to a family that was burying their son at Arlington Cemetery. Friends brought casseroles when paying their respects.
- Likewise, each of the July presenters made exaggerated claims of daily rentals when they know I live in my home full time. This is my only residence. Unfortunately, they will say anything. They have worked dishonestly. They convinced our HOA to issue cease-and-desist letters, defying the General Assembly's Homeowner's Bill of Right. In September, they convinced Fairfax County to adjust decades-old treatment of short-term rentals.
- Airbnb has been a lifeline for my family and me. With three kids in college, I lost my job right after we purchased our home. The job I have now does match my previous salary. We rent weekends when we travel to see the kids, about four days a month.
- In closing, Delegate Peace, you said it best at the July work group. I hope that we as Virginians would not endorse a system of laws or rules or otherwise allow that type of discrimination to continue. Please don't codify prejudice. Thank you.
- **Peace:** Thank you, sir. If you could provide a copy of your written comments to staff—oh, she already has it. Thank you very much. Is there anyone else who would like to address the work group?
- **Marcus Jackson:** Hi folks. My name is Marcus Jackson. I'm a resident of Reston, Virginia, in Fairfax County. We have, unfortunately, the flip side of horror on our side.
 - My wife and I moved to Reston because we were looking for a community. We wanted a place where we could raise our kids, they could play outside, they could

participate, we could be supportive and supported by our community. We found that. We found all that and more. We drove up here in a car that is covered with our kids' team stickers. It's exactly the kind of place that we wanted to be. A real community. I could show the pictures of our Halloween party this week, but we don't have time.

- In November of last year, a house on our street was purchased by a gentleman who had the express purpose of hosting an Airbnb. He lives in the house. He lives in a room in the basement. All of the upstairs rooms have been for rent, \$35 a night, ever since. This created our issues around the community in who was around and so on.
- But it really became an issue when we realized that the daughter of our neighbor had been pursued and harassed by one of the guests. This gentleman who is the host did nothing to help the police when we called them. The police, by the way, had no idea that this was going on, that the property was being rented, which I think presents another set of issues.
- Once we began investigating this as a community—and when I say *community*, this is a street, this is a cul-de-sac of 17 houses. We all know each other. This is not the broader sense of community. I'm not talking about Reston in general. I'm talking about my street, my neighborhood. We began investigating to see what is going on, where is this coming from. Found the property listed on Airbnb and realized that this gentleman was touting the tight-knit community, the kid-friendly environment as a selling point of his room-by-room rental.
- We did the math on that, and what we realized was Hey, you know what? If you are advertising \$35 a night in a child-friendly neighborhood, you might not get the right element. If you're fishing with kids as bait, you get the wrong thing.
- So we said Okay, what can we do here? We talked to police; they didn't have very much power. We said Well, we live in Reston; we're going to go to the Reston Association. We engaged them. We got them on our side. We engaged Fairfax County; they're on our side. We're not zoned for bed and breakfasts without a permit. We said Great, we're in a good position here. Our local government's responding to us. And we learned about this bill. We learned that despite our best efforts to engage our local government and do things at the level that seemed to make sense to us, we could be in a position where it doesn't matter, where we still have to deal with this man because the state has imposed one regulation for all.
- That's not the way our state works. What works in Virginia Beach may not work in Fairfax, may not work in Blacksburg. We're all very different communities. To even say that what works on my street would work a mile away at Reston Town Center is ridiculous. It should be a local issue.

- Deciding whether or not someone has the ability to rent and how much and how long is a tough thing. If you look at the tiers as they're currently proposed, this is a gentleman who doesn't really fit into any of them. He doesn't fit into tier 1 because he has rented his house for many days. We have records. He has at least 35 reviews. We've counted days of multiple cars at his house from different states throughout this entire period. If you look at tier 2, well yeah, he resides there, but he doesn't rent out to one person. He's essentially running a boarding house. But he lives there, so he's not tier 3.
- The point here is that this is not an issue that makes sense to specify here at that level. We should be, as a locality, able to say this doesn't make sense in this area, but it does make sense over here. That's the big thing I would like you to take away from this. Thank you very much.
- **Peace:** Thank you. Is there anyone else?
- **Male:** Mr. Chairman, can I just make one editorial comment? Other folks that have participated in these discussions could correct me if I'm wrong. The gentleman raised an interesting point. Tier 3 probably could have been outlined better here, but for individuals who rent their home out continually, they would be under the tier 3 description. So here it says vacation homes, multi-unit buildings. But I think to the gentleman's point—obviously not knowing the specific circumstances—that individual could fall under the tier 3 category, which would essentially be the status quo. I just wanted to make that known.
- **Peace:** Thank you very much. Yes sir. Please state your name.
- **Jay Billie:** Thank you, Mr. Chairman. My name is Jay Billie. I'm the owner and operator of a bed and breakfast in Orange, Virginia, called the Inn at Westwood Farm. I do it along with my wife.
 - I just have to say that the regulatory and tax-related issues that you have before you and have been working on really have less to do with short-term lodging and really more to do with the sharing economy. And how to regulate it or not regulate it should serve as a blueprint for the sharing economy as a whole as you go forward.
 - The emerging economy trend will not stop at taxicab services and the short-term rental, and it will evolve into other services that will butt up against other established businesses in the very near future. What are you going to do with sites called TaskRabbit and Care.com and Upwork that have taken freelance marketing to a new level? Upwork specializes in helping more traditional freelancers. Care.com specializes in the caregivers for children as well as the elderly.
 - What are you going to do with companies that provide co-working spaces like Wework.com? What about Uber? What are you going to do with services like

Getaround.com that enables individuals to share their cars with neighbors? Or what about drivers who offer wine tours while limo drivers need licenses? What are you going to do with Lending Club that allows people to lend money to one another? And also how about NeighborGoods and similar sites that allow people to borrow resources like power tools, woodworking equipment, and kitchen appliances to their neighbors? What are you going to do about in-home dining sites like Feastly.com where everybody who cooks in their kitchens go on without any vetting process whatsoever?

- Not all of these services are available just yet, but they will arrive. Can you imagine going through this entire process again with the restaurant industry, the bank industry, the trucking industry, the commercial lending industry, the employment agency industry, and so forth and so on? So it's imperative that you look at the entire picture and have a clear and consistent strategy along all industries.
- The growth of the short-term rental market is actually remarkable. I heard the gentleman over here indicate that there were 45 units available, 4,500 units in Virginia. Well actually per AirDNA, as of yesterday there were 8,500 units available. So that would be a 90 percent growth rate in just 10 months. If those 8,500 units operated at a low 20 percent occupancy rate for 73 nights a year at an average cost of \$100, that's \$62 million a year, and that's probably being extremely conservative. There is no sales tax being taken, no transient occupancy tax taken. And in most cases, a lot of the personal income tax is not being withheld or even paid.
- These unregulated hosts can talk until they're blue in the face about their property rights. But when they're not paying all these taxes and legal, regulated businesses such as bed and breakfasts and hotels offering the same exact service are, it's an injustice that must be addressed quickly.
- In our home county of Orange alone, there are 180 rooms available in the 12 legal hotel and registered bed and breakfasts and inns. In the same county, there are over 100 rooms, one-third of all the available rooms in 50 facilities advertised on Airbnb with a new listing coming on every month as of January 2015. And it is still growing. Not only is it eroding the businesses of the existing establishments, some of the Airbnb properties are branching out hosting weddings and special events.
- The other point that really needs to be emphasized is that Airbnb hosts are true entrepreneurs in this economy. And I applaud them. They have allegiance to Airbnb not so much because it just generates bookings, but their website protects them from regulation and tax collectors, which allows them to operate with less overhead and oversight than a regular business. It would be foolish to think that if Airbnb started to collect taxes, these entrepreneurial spirits and hosts would just go along with it. A good portion of these hosts will be moving to another website that is not registered with the Commonwealth. After all, about 30 or 40

of these websites exist, offering the same service as Airbnb. In this scenario, the state would be playing whack-a-mole trying to collect taxes from all the other websites.

- The answer is really to have the local jurisdictions handle this growing economy by regulating, inspecting, registering, and taxing each facility that offers accommodations for compensation. The big elephant in the room is, of course, enforcement. And you need to give the local jurisdictions the ability to fine these unregistered businesses with financial penalties. If Airbnb truly would like to help, they could notify the host to come forward and register within a certain grace period. Afterwards, if the facility is not registered, penalties and fines will apply. This has worked well in some foreign cities like Berlin and Madrid.
- Also, the state should do everything it can to simplify the process of opening a business with a new online portal specifically for sharing economy workers. These people want to earn money, but they are confused by the process. Having gone through it myself, it's not that complicated, but it does need to be streamlined. The IRS has recently started a new webpage to provide information for those working in the sharing economy to ensure that they do not run into tax problems. Virginia should also be out in front of this.
- The end result will be new business startups will increase. The hosts will run their enterprise like a business. A sharing economy strategy that applies to all industries will be adopted. All taxes will be paid. Guests will be able to enjoy their stay in a safe environment. Local jurisdictions will maintain control over their neighborhoods. And a level playing field will be maintained. Thank you.
- **Peace:** Thank you very much. Welcome back.
- **Jack North:** My name is Jack North. My wife and I own Mayhurst Inn in Orange, Virginia. By the way, we are both a legal B&B and an Airbnb host. Yes, it's a real pleasure to be back, guys.
 - At the last meeting, thanks to the IRS, I think we'll be able to help you resolve two critical issues. One is defining *occasional use*. They kind of did that for you. It's something less than 15 days. I'm not quite sure why you put 45 in the matrix just to confuse everybody. But, hey, whatever you want to do.
 - It also seems that the committee is struggling with some of the right terminology to use in the revised bill. I saw that in the matrix. The hundreds of legal B&Bs in Virginia are happy to give you some help, especially since we're going to get covered by the exact same regulation. We're in the same business; we do the same thing. And we want to make especially sure that it is fair and just for everybody and, as I think Lisa stated, standardized for everybody.
 - The revised legislation should include some of the following things. And by the way, this dovetails very nicely with what you have in the matrix.

- Require registration as a business for any facility that provides accommodations for 15 days or more per year for compensation in Virginia. That's what we are; we're all businesses. Again, this follows the IRS lead. They call them businesses. And it uses their same 15-day timeframe.
 - Require full and open transparent identification of every Virginia facility listed on Airbnb or any other platform like HomeAway or VRBO or many of the others that Jay mentioned. This should include full identification of that facility, their address, and their ownership. There is no earthly reason to keep this secret. By the way, there are a lot of other websites out there that list B&BS—Expedia, Hotels.com, Trivago. You know them—that list both the name and the address and the phone number and the name of the people. So if it's too hard for Airbnb, it must be too hard for them too.
 - Allow each local government to regulate, inspect, and tax each facility that provides accommodation for compensation in the Commonwealth of Virginia.
 - Require all facilities that provide accommodations for compensation to meet the applicable state and local government requirements for building codes, state and local fire and safety requirements and codes, state and local government Health Department regulations, and meet applicable state and local government ABC laws and regulations. For example, we offer breakfast, we offer alcoholic beverages. Oddly enough, so do about 10 of those B&Bs in Orange County. But they're not licensed or approved or within the law.
 - Require any platform—example Airbnb, HomeAway, or VRBO—that collects and pays taxes for listing properties to provide each level of government with a full accounting of all income and revenue for the listed facilities and account for any taxes collected and paid by that hosting platform. And to solve the problem about Do we have the host do it or do we have the company do it, allow both. Require each actual host or operator of the facility that provides accommodations for compensation to collect and pay all applicable state sales taxes and lodging accommodation taxes whether directly or through a platform. It shouldn't matter one way or the other.
 - And finally, require all facilities that provide accommodation for compensation for more 15 days or more per year to have appropriate insurance. You have that partially covered in what I've seen already.
- If you need additional assistance in coming up with some wording for the legislation, we'd be glad to help.
 - And one final note: please don't forget to vote; we do.

- **Peace:** Thank you very much. Is there anyone else who would like to address the work group? Yes sir.
- **Don:** Don [inaudible], Fairfax County. First of all, I would like to say that I would like to see this proposal go *poof*. I think that's one of the best ways that we could go with it. In three minutes, I don't have time to say much about it. One of the things that was badly missing in this venue here is any representation of the neighborhoods at these tables. I'm kind of amazed at how well the real estate is represented, the B&B. everybody's lawyered up as well as they can be. But nobody is really going out there and seeing what kind of damage is going on out there.
 - I lived in Charles City for two years. I love this area. I know how you feel about Northern Virginia, and I understand how that factors into it. And I can't say I entirely blame you.
 - But for instance, nobody was there to answer the real estate representative about property rights and about the homeowner's rights. We have rights, too. There is no question that when they came here, the owners, they knew that 10 years ago, 20 years ago you could not build a motel or a hotel in a residential district. That we know. Clearly, nothing was changed when we said No, you can't do that. It was always that way. When they bought it, that was intact. The contract that we had with our county to honor the implied contract that you don't do that was dishonored. And now it's being dishonored by the realtors.
 - One thing that I would really like to say that I find particular onerous is the inapplicability clause. Now, we all know here that if we took that out, this would disappear. Why is that? Because you all are making decisions about us in our working class, unprotected neighborhoods that are going to descend on us. We've had this come down from Richmond in the Kate and Allie legislation that said you could have four unrelated people in a residential neighborhood. Dick Saslaw said just the other day that when that came along there was no possibility of getting any enforcement whatsoever until they were spilling out on the lawns. Clearly, that was a step in the direction that was imposed on Northern Virginia. We can't do anything about that.
 - Twelve child daycare centers in residential neighborhoods. We have 12 child daycare centers in the basements of townhouses in Fairfax County.
 - There's no way that we can bring to you the sense of destruction that is happening to our neighborhoods and not the HOAs. There is a map that we made a while ago that showed a protected neighborhood in the Mason District where I live. There were red marks all over the place for these big mansions. Just like phase 1 of this same kind of horrible proposal putting motels and hotels in and destroying neighborhoods. In that center, there was not one red dot because that was a protected neighborhood. That was Lake Barcroft. Lots of representation there. Our planning commissioner was there. Our delegate lives there. Class warfare is really what it is.

- I appreciate your being here. I appreciate the work you do in working on this. But there is something very badly missing from this discussion. Thank you very much.
- **Peace:** Thank you, sir. I appreciate it. Is there anyone else who would like to address the work group? Anyone at all? Okay. We thank you all for coming this long way and for sharing your voice. Believe me, it's very important for us to hear these comments.
 - We don't have anything standing between us and adjournment except for taking some action, if any, on the matrix or any subset thereof. The Housing Commission is scheduled to meet what date?
- **Elizabeth Palen:** We'll meet December the 14th at 10 a.m. in House Room C.
- **Peace:** So we have a month, essentially, with a holiday in between, between today and the full Housing Commission. That is the body that would make any final recommendation to the General Assembly and expressing its sense of where this issue should go in terms of whether there's a bill, whether it's statewide, whether it's all properties, whether it's central point of collect, preemption, tiers, registration, and some enforcement of some kind. That is obviously where the decision-making authority is. This has been an exercise to develop all those various points and policies around those various points. Senator Barker, did you want to make a recommendation?
- **Barker:** Let me make a recommendation if, for nothing else, to try to move things forward here. I'd hate for us to walk away from here and just wait until we reconvene as the Housing Commission on the fourteenth and then try to sort of work our way through this. I think there is a fair amount of consensus that we've moved at least toward, even if we're not fully there yet.
 - What I would suggest is that we agree:
 - That we're going to try to apply this to all types of properties so we're not going to have it be specifically limited to just primary residences for short-term types of things;
 - That we try to accomplish some type of system to differentiate among those, whether we call it a tiered system or whatever to try to look at it for the different characteristics of the different types of options there that we build into it;
 - That there be a mechanism for statewide collection of the taxes and those types of things and disbursement of those, remitting those to the localities where those would be called for;
 - That we have at least the option for at least a ministerial registration there so that there's at least that; and

- That we in effect ask the stakeholders to see whether between now and December 14th you can come up with ways to sort of help us figure out how we could implement that so that we would have some framework to look at, at least when we convene on the fourteenth.
- That would be my recommendation, Mr. Chairman.
- **Peace:** Thank you, Senator Barker. I'll hear that in the form of a motion. Is there a second to that motion as stated?
- **Male:** Second.
- **Peace:** There's a second. Is there any discussion? I would add that Lisa and Elizabeth would be available to stakeholders in that process to work through those finer points, because obviously that's where it meets the road. Mr. Dicks.
- **Dicks:** Mr. Chairman, a question on Senator Barker's motion. Would it include the exemption for real estate licensees as previously discussed?
- **Barker:** I'll leave that to the stakeholders to work it out.
- **Dicks:** Thank you. Then I would not be able to vote for the motion at this time without that in there.
- **Peace:** Any further discussion? Delegate Bulova.
- **Bulova:** I don't have a problem with moving forward with kind of a sense of the work group in order to come up with something, realizing that we can all withhold judgment. I guess two points, and they don't have to be in stone, but this would certainly help me.
 - If we do go with registration, we have tier 1 and tier 2. Keeping that tier 1 de minimis at a very low level. It really struck me the idea that even 14 days can be very high impact.
 - I guess the most important thing is if we could maintain the severability of certain parts, especially with regard to the zoning. I hear a good deal of conversation about registration, potential tiers, having the collection at a certain point.
 - But again, I really think that that part that's going to trip us up is the idea of usurping local zoning control. So however this is designed, I think it'll help the conversation if we're able to go ahead and have that be a manageable part rather than interspersed throughout the whole thing.
- **Mullen:** Thank you, Mr. Chairman. Edward Mullen with Reed Smith. I understand the spirit in which that was suggested. I guess from my perspective, they really are all intertwined, part and parcel. When we have ventured these sorts of things in other

places, albeit at the large municipal level, setting up the collect-and-remit framework and sort of addressing the land use issues is all part and parcel. And I think you can do it in a way that is somewhat flexible. And I think some of the tiered system discussions maybe do that, kind of come up with different situations for different things. It would be important for me for any final discussion to really at least for the primary residences—and that’s an aspect of the tier system—come up with an ability to so it across the state.

- **Bulova:** Mr. Chairman, I’m not suggesting that that ought not to be fleshed out and discussed vigorously. But from my perspective, I think it would be helpful to go ahead and see what support there is with or without trespassing on local land use authority.
- **Peace:** Okay. So Senator Barker has made a motion and it was seconded that the stakeholders be charged with going forth and fine turning these baseline points that there seem to be some consensus around. And there’s some exception to the realtor point, and there’s a desire to include the severability element. I didn’t hear Senator Barker say that. What I heard him say was those fine points will be left to the stakeholders.
 - The purpose of the work group will have been to collect information, distill it, set it up in a direction with earnest desire that the stakeholders develop what would be legislation that the Housing Commission would write.
- **Barker:** Thank you, Mr. Chairman. I guess my idea is that whatever we come up with, let’s make sure that it works with or without the zoning components so that we’re not struggling one way or the other when we’re discussing it.
- **Peace:** I’ll just say that many of us—Delegate Knight, you, me, Betsy—Senator Barker, we’re members of the Commission and we’re on the work group. So we’ll know what the spirit was that was issued and what we expect to see back. And if it can’t come back, then it can’t come back.
- **Mullen:** Mr. Chairman, just from a point of clarification, what you are actually serving up to the Housing Commission is effectively this matrix, which is a list of issues along with the note that we’ve asked the stakeholders, to the best that they can, to continue to work together to come to some resolution on these. Maybe across the board there may not be.
- **Peace:** Mr. Mullen, to the point that Senator Barker made in his motion, where there are holes and unspecified items, particularly related to de minimis, I think Delegate Bulova mentioned, and the second tier, put a fine point on those and see if we can’t come to some resolution before December 14th, if at all. If there is no recommendation made, we can recommend to the Commission this was the charge, these are the elements. And then the Commission always has the last say and prerogative into what it recommends. Mr. Rives.

- **Rives:** Mr. Chair, thank you. Sterling Rives, VACO. I heard Mr. Mullen indicate that Airbnb links the centralized tax collection with the preemption of local zoning authority, that that's the deal that's on the table. I think that if you listen to all the comments that you've heard here at these meetings, you've read the correspondence that you've received, there are many residents, along with local governments, who do not think that that's a very good deal. To have a voluntary system where Airbnb may file taxes directly in whichever localities they choose, to trade that off for loss of local zoning authority—and particularly when the information on which those taxes are based is kept from the localities, it's just not a very good deal for us.
 - With regard to the tiers, I will point out that one of the reasons that the counties are opposed to that concept is that the tier system cannot function unless there is accurate registration and reporting and transparency. We cannot know who would fall into which tier without that information from everyone who's engaged in short-term rentals.
 - In addition, for accurate collection and auditing of transient occupancy tax, we need that same information for not only who is renting, but also for how often and what are they receiving. Thank you.
- **Peace:** Mr. Rives, it's not totally dissimilar, what you said, to the issues that we've considered in the legislature concerning the commissioner's ability to access personal property in storage units. If you have a boat in a storage unit and localities want to know if you have your boat in their locality so that they can tax it. Would you say that they're somewhat analogous?
- **Rives:** I think there's a whole lot more at stake here than the random boat in a storage unit.
- **Peace:** I appreciate that.
- **Rives:** But you can draw a comparison, yes.
- **Peace:** It's the transparency matter that I'm trying to get to.
- **Rives:** Exactly. And it is the owner of the boat who's obligated to report that boat, just as it's the owner of the house that's being rented out who should have the obligation to report that to the commissioner.
- **Peace:** All tax collection is based on the honor system in its origin.
- **Terry:** Mr. Chairman, Eric Terry with the Virginia Restaurant, Lodging & Travel Association. Certainly, from our perspective we're committed to kind of working through. And we appreciate Senator Barker's recommendation. But I also share Mr. Rives' concerns about the voluntary nature of either taxes or registration. I think those have to be very important components of whatever we come to the table with. We've heard from many jurisdictions. Certainly our industry has to disclose everything that

we do up to the person renting the room. So we believe that's an important piece of the whole puzzle. But we're certainly willing to work earnestly to sort of get something that makes sense.

- **Peace:** Is there anyone else?
- **Bulova:** Mr. Chair, just to make sure I understand exactly what we're doing here. We are not endorsing any particular approach or any particular legislation. What we're doing is taking this framework and saying we're willing to make a run at it, and we're willing to take it to a next step to see whether there is consensus among stakeholders for these different elements, and that we're going to go ahead and present something at the Housing Commission and see if it still hangs altogether. And then we can decide whether or not there's something that's endorsable. Correct?
- **Peace:** I would say yes. And the basis will be what Senator Barker outlined as sort of the minimum considerations. Is there any further discussion on this recommendation? Delegate Carr.
- **Betsy Carr:** Mr. Chairman, is Lisa going to take this information and begin to kind of fashion a—
- **Peace:** That's an important question.
- **Carr:** Does she have enough information to fashion something or not?
- **Peace:** Elizabeth has about 25 pages of notes right here from all of our conversations with some common denominators outlined. Lisa and Elizabeth and I will work toward that end. She's made herself available. We appreciate that. Thank you.
 - We know the course we're taking. All in favor indicate by saying Aye. All opposed? How about all in favor raise your right hand? One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve. Twelve yays. Opposition—one, two, three. Twelve yays, three nays for those who are in their seats. Thank you very much.

V. Adjournment

- We appreciate your time. We stand adjourned.